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CHAPTER 140. LICENSES**SALE OF SECOND HAND MOTOR VEHICLES****Chapter 140: Section 58. Classes**

Section 58. (a) Licenses granted under sections 59 and 59A shall be classified in accordance with subsections (b) to (d), inclusive.

(b) Class 1. Any person who is a recognized agent of a motor vehicle manufacturer or a seller of motor vehicles made by such manufacturer whose authority to sell the same is created by a written contract with such manufacturer or with some person authorized in writing by such manufacturer to enter into such contract, and whose principal business is the sale of new motor vehicles, the purchase and sale of second hand motor vehicles being incidental or secondary thereto, may be granted an agent's or a seller's license; provided, that with respect to second hand motor vehicles purchased for the purpose of sale or exchange and not taken in trade for new motor vehicles, such dealer shall be subject to all provisions of this chapter applicable to holders of licenses of Class 2, except subsection (c), and to rules and regulations made under those provisions; and provided further, that such dealer maintains or demonstrates access to repair facilities sufficient to enable him to satisfy the warranty repair obligations imposed by section 7N1/4 of chapter 90, and shall remain liable for all warranty repairs made and other obligations imposed by said section 7N1/4 of said chapter 90.

(c) Class 2. A person whose principal business is the buying or selling of second hand motor vehicles, a person who purchases and displays second hand motor vehicles for resale in retail transactions, and any other person who displays second hand motor vehicles not owned by him pursuant to an agreement in which he receives compensation, whether solely for displaying the vehicles, upon the sale of each vehicle, or otherwise, may be granted a used car dealer's license and shall be subject to the following conditions:

(1) The person shall obtain a bond, or equivalent proof of financial responsibility as described in paragraph (5), and continue in effect a surety bond or other equivalent proof of financial responsibility satisfactory to the municipal licensing authority in the amount of \$25,000 executed by a surety company authorized by the insurance department to transact business in the commonwealth. The bond or its equivalent shall be for the benefit of a person who purchases a vehicle from a Class 2 licensee, and who suffers loss on account of:-

(i) the dealer's default or nonpayment of valid bank drafts, including checks drawn by the dealer for the purchase of motor vehicles;

(ii) the dealer's failure to deliver, in conjunction with the sale of a motor vehicle, a valid motor vehicle title certificate free and clear of any prior owner's interests and all liens except a lien created by or expressly assumed in writing by the buyer of the vehicle;

- (iii) the fact that the motor vehicle purchased from the dealer was a stolen vehicle;
- (iv) the dealer's failure to disclose the vehicle's actual mileage at the time of sale;
- (v) the dealer's unfair and deceptive acts or practices, misrepresentations, failure to disclose material facts or failure to honor a warranty claim or arbitration order in a retail transaction; or
- (vi) the dealer's failure to pay off a lien on a vehicle traded in as part of a transaction to purchase a vehicle when the dealer had assumed the obligation to pay off the lien.

(2) Recovery against the bond or its equivalent may be made by any person who obtains a final judgment in a court of competent jurisdiction against the dealer for an act or omission on which the bond is conditioned if the act or omission occurred during the term of the bond. Every bond shall also provide that no suit may be maintained to enforce any liability on the bond unless brought within 1 year after the event giving rise to the cause of action.

(3) The bond or its equivalent shall cover only those acts and omissions described in clauses (i) to (vi), inclusive, of paragraph (1). The surety on a bond shall not be liable for total claims in excess of the bond amount, regardless of the number of claims made against the bond or the number of years the bond remained in force.

(4) A separate bond shall be required for each different name under which the dealer conducts his business and for each city or town in which the dealer has a place of business.

(5) In lieu of the bond required by this section, the municipal licensing authority may allow the dealer to deposit collateral in the form of a certificate of deposit or irrevocable letter of credit, as authorized by the banking laws of the commonwealth, which has a face value equal to the amount of the bond otherwise required. The collateral may be deposited with or executed through any authorized state depository designated by the commissioner. Interest on the certificate of deposit shall be payable to the dealer who has deposited it as collateral, or to a person as the dealer or the certificate may direct.

(6) A surety shall provide to the municipal licensing authority notice of cancellation of the bond within 30 days of the cancellation.

(7) Upon receipt of notification from a surety that a bond has been cancelled, the municipal licensing authority shall notify the licensee that he has 10 days to comply with the bonding requirement. If the licensee does not comply within the 10 day period, the municipal licensing authority shall revoke the Class 2 license and shall notify the registrar who shall suspend or revoke any dealer plate issued to the licensee pursuant to section 5 of chapter 90.

(8) A municipal licensing authority shall not issue or renew a Class 2 license unless it is satisfied that a bond or equivalent proof of financial responsibility meeting the requirements of this section is in effect during the term under which the license shall be issued or renewed, and that the licensee maintains or demonstrates access to repair facilities sufficient to enable him to satisfy the warranty repair obligations imposed by section 7N1/4 of chapter 90. A used car dealer shall remain liable for all warranty repairs made and other obligations imposed by said section 7N1/4 of said chapter 90.

(d) Class 3. A person whose principal business is the buying of second hand motor vehicles for the purpose of remodeling, taking apart or rebuilding and selling the same, or the buying or selling of parts of second hand motor vehicles or tires, or the assembling of second hand motor vehicle parts may be

granted a motor vehicle junk license.

(e) The registrar of motor vehicles, after consulting the office of consumer affairs and business regulation, shall adopt rules and regulations defining sufficient repair facilities for the purposes of subsection (b) and paragraph (8) of subsection (c).

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Section 59. The police commissioner in Boston and the licensing authorities in other cities and towns may grant licenses under this section which shall expire on January first following the date of issue unless sooner revoked. The fees for the licenses shall be fixed by the licensing board or officer, but in no event shall any such fee be greater than \$200. Application for license shall be made in such form as shall be approved by the registrar of motor vehicles, in sections fifty-nine to sixty-six, inclusive, called the registrar, and if the applicant has not held a license in the year prior to such application, such application shall be made in duplicate, which duplicate shall be filed with the registrar. No such license shall be granted unless the licensing board or officer is satisfied from an investigation of the facts stated in the application and any other information which they may require of the applicant, that he is a proper person to engage in the business specified in section fifty-eight in the classifications for which he has applied, that said business is or will be his principal business, and that he has available a place of business suitable for the purpose. The license shall specify all the premises to be occupied by the licensee for the purpose of carrying on the licensed business. Permits for a change of situation of the licensed premises or for additions thereto may be granted at any time by the licensing board or officer in writing, a copy of which shall be attached to the license. Cities and towns by ordinance or by-law may regulate the situation of the premises of licensees within class 3 as defined in section fifty-eight, and all licenses and permits issued hereunder to persons within said class 3 shall be subject to the provisions of ordinances and by-laws which are hereby authorized to be made. No original license or permit shall be issued hereunder to a person within said class 3 until after a hearing, of which seven days' notice shall have been given to the owners of the property abutting on the premises where such license or permit is proposed to be exercised. Except in the city of Boston, the licensing board or officer may, in its discretion, waive the annual hearing for renewal of a class 3 license. All licenses granted under this section shall be revoked by the licensing board or officer if it appears, after hearing, that the licensee is not complying with sections fifty-seven to sixty-nine, inclusive, or the rules and regulations made thereunder; and no new license shall be granted to such person thereafter, nor to any person for use on the same premises, without the approval of the registrar. The hearing may be dispensed with if the registrar notifies the licensing board or officer that a licensee is not so complying. In each case where such license is revoked, the licensing board or officer shall forthwith notify the registrar of such revocation. Any person aggrieved by any action of the licensing board or officer refusing to grant, or revoking a license for any cause may, within ten days after such action, appeal therefrom to any justice of the superior court in the county in which the premises sought to be occupied under the license or permit applied for are located. The justice shall, after such notice to the parties as he deems reasonable, give a summary hearing on such appeal, and shall have jurisdiction in equity to review all questions of fact or law and may affirm or reverse the decision of the board or officer and may make any appropriate decree. The parties shall have all rights of appeal as in other cases.

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Section 59A. No license shall be granted under section fifty-nine to a person within Class 3 as defined in section fifty-eight, for a motor vehicle junkyard, unless such junkyard

- (a) is to be operated and maintained entirely within a building; or
- (b) is to be operated and maintained exclusively for the purpose of salvaging the value as scrap of the material collected, as opposed to reselling parts to be used for the purpose for which they were originally manufactured, and is to be located in a built-up industrial or commercial area, or contiguous to a railroad siding, or on or contiguous to docking facilities; or
- (c) is:
 - (1) more than one thousand feet from the nearest edge of any highway on the interstate or primary system, and
 - (2) more than six hundred feet from any other state highway, and
 - (3) more than three hundred feet from any park, bathing beach, playground, school, church or cemetery and is not within ordinary view therefrom; or unless it is
 - (4) screened from view by natural objects or well-constructed and properly maintained fences at least six feet high acceptable to said city or town and in accordance with regulations as promulgated by the department of highways and as specified on said license.

No license shall be granted under the provisions of clause (4) of subsection (c) unless a copy of the application for such license has been forwarded by the applicant to the department of highways within three working days of the filing of said application.

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Chapter 140: Section 60. Registrar's rules and regulations

Section 60. The registrar may from time to time make rules and regulations consistent with sections fifty-seven to sixty-nine, inclusive, relative to the purchase, sale or exchange of second hand motor vehicles or parts thereof.

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Section 62. Every licensee shall keep a book on the licensed premises, in such form as shall be approved by the registrar, in which, at the time of the purchase, sale, exchange, or receipt for the purpose of sale, of any second hand motor vehicle or parts thereof, shall be legibly written in the English language an account and description of such motor vehicle or parts, with the name and address of the seller, of the purchaser, and of the alleged owner or other person from whom such motor vehicle or parts were purchased or received or to whom they were delivered, as the case may be. Such description, in the case of motor vehicles, shall also include the identifying number or numbers required by the registrar, and shall also include a statement that the identifying number or numbers have been removed, defaced, altered, changed, destroyed, obliterated or mutilated if such is the fact.

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Section 66. The colonel of state police, the attorney general or such persons as he may designate, the police commissioner in Boston, the chief of police of any other city, the selectmen of a town or any police officer authorized by any of said officials may at any time enter upon any premises used by any person licensed under section fifty-nine for the purpose of carrying on his licensed business, ascertain how he conducts the same, and examine all second hand motor vehicles or parts thereof kept or stored in or upon the premises, and all books, papers and inventories relating thereto.

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Section 67. A licensee under section fifty-nine, or a clerk, agent or other person in charge of the licensed premises, who refuses to admit thereto an officer authorized to enter the same, or who fails to exhibit to him on demand all such motor vehicles, parts thereof, and books, papers and inventories relating thereto, and any person who wilfully hinders, obstructs or prevents such officer from entering the premises or from making the examination authorized in the preceding section, shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than one year, or both.

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Section 67A. Any person licensed under section 54 or 59 shall comply with subsection (a) of section 20E of chapter 90D. The registrar may notify the licensing authority which issued the license to any person who has failed to comply with the provisions of this section of such failure and said authority shall suspend or revoke such license and shall not thereafter reinstate, renew or issue any such license to such person without the written consent of the registrar.

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CHAPTER 140. LICENSES**SALE OF SECOND HAND MOTOR VEHICLES****Chapter 140: Section 68. Unlicensed business**

Section 68. Whoever, not being licensed, carries on the business for which a license is required by section fifty-seven, or is concerned therein, or, being licensed, carries on such business or is concerned therein in any other place or manner than that designated in his license, or after notice to him that his license has been revoked or suspended, shall be punished by a fine of not less than two hundred and not more than one thousand dollars or by imprisonment for not more than one year, or both.

In cases of two or more convictions, under the provisions of this section, the attorney general shall be notified for action under section six of chapter ninety-three A.

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Section 69. Whoever violates any provision of sections fifty-seven to sixty-eight, inclusive, or any rule or regulation made by the registrar under section sixty, unless a penalty other than the revocation of a license is prescribed therefor elsewhere in said sections, shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year, or both. A conviction of a violation of any of said sections, rules or regulations shall be reported forthwith by the court or magistrate to the registrar of motor vehicles who may, after a hearing, suspend or revoke any certificate of registration issued under section five of chapter ninety.